

**Statement of James W. McMahon**  
**Director, New York State Office of Homeland Security**  
**Before the**  
**House Committee on Homeland Security**  
**Subcommittee on Prevention of Nuclear and Biological Attack:**

**December 14, 2005**

**INTRODUCTION**

Good morning Chairman Linder and members of the Subcommittee on Nuclear and Biological Attack. My name is James McMahon and I am the Director of the New York State Office of Homeland Security. I applaud and thank you and other members of Congress for addressing this critical issue.

**Use of Ammonium Nitrate As A Weapon**

The use of ammonium nitrate as a weapon by terrorists, unfortunately, is not new.

In the early morning hours of August 24, 1970, a van filled with ammonium nitrate and fuel oil was detonated next to a building on the University of Wisconsin–Madison campus housing the Army Mathematics Research Center, killing a physics researcher and causing massive damage to the facility.

We all know that on April 19, 1995, Timothy McVeigh detonated a Ryder truck containing a 4800 pound bomb of consisting of ammonium nitrate fertilizer, fuel oil and nitro-methane, in front of the Alfred P. Murrah Federal Building in Oklahoma City, killing 168 American men, women, and children.

Internationally, the picture is just as troublesome.

In October 2000, authorities in Singapore foiled an al Qaeda plan to drive trucks each loaded with a ton of ammonium nitrate, purchased by al Qaeda operatives through a Kuala Lumpur clinical pathology company, into the US, Australian, British and Israeli embassies in Singapore. On March 30, 2004, British anti-terrorism police arrested eight men suspected of planning a terrorist attack and confiscated 1,320 pounds of ammonium nitrate from a self-storage warehouse in West London. For decades, the United Kingdom has experienced numerous high consequence Provisional Irish Republican Army (PIRA) bombings involving the

conversion of ammonium nitrate fertilizer into deadly and damaging high explosives. Notable bombings include attacks at the Baltic Exchange, Bishopsgate, Canary Wharf and Omagh.

Most recently, Joel Henry Hinrichs III, an Oklahoma University student, was killed in October of this year when an explosive device he built detonated as he sat on a bench 100 yards from a stadium filled more than 84,000 spectators. Of particular interest is the fact that the investigation into his apparent suicide shows Hinrichs had unsuccessfully attempted to purchase ammonium nitrate in the days preceding the incident. If he had been successful there is no telling what devastation he may have caused.

Ammonium nitrate is, of course, one of the most common, commercially available ingredients traditionally exploited by terrorist bomb makers throughout the years and continuing in the new millennium. It can be mixed with common diesel fuel to create an extremely potent and deadly improvised explosive mixture. Instructions for producing ammonium nitrate explosive mixtures have been incorporated into training manuals produced by both domestic and international terrorists and widely disseminated over the Internet.

There is considerable and heightened concern these prior attacks and plots will serve to inspire acutely isolated and unbalanced "lone wolves" to utilize relatively easy to get ammonium nitrate to carry out highly destructive attacks with virtually no indication, prior warning or affiliation to known terrorist organizations.

### **New York State Ammonium Nitrate Legislation**

In the aftermath of September 11<sup>th</sup>, Governor Pataki has made prevention of terrorism New York's number one priority. Our State Legislature has enacted some of the most stringent anti-terrorism laws in the nation and has statutorily required the identification and reduction of vulnerabilities to terror attack in our critical infrastructure with a specific emphasis in sectors like energy, toxic chemicals sites and general aviation security. This past year we struck a delicate balance between commerce and security to require that ammonium nitrate is properly secured by retailers in our state and buyers of this material are properly identified, yet at the same time ensure the continued proper commercial trade in fertilizer products.

On August 28, 2005, Governor Pataki signed into law certain measures that are now required surrounding the sale of ammonium nitrate fertilizer products. These include the registration of ammonium nitrate fertilizer retailers, a requirement that

certain records be created and maintained of all such retail sales, along with specific baseline security standards for ammonium nitrate retailers to safeguard this product from misuse.

Under this law, effective only weeks ago on November 28<sup>th</sup>, and accompanying regulations issued by the State Department of Agriculture and Markets, the latter promulgated in consultation with New York's Office of Homeland Security, retailers of ammonium nitrate fertilizer are now required to do five basic but vitally important things:

- First, they must register with the Agriculture and Markets Department and publicly display their registration certificate.
- Second, ammonium nitrate retailers must comply with certain baseline security requirements that include providing reasonable protection against vandalism, theft or unauthorized access, ensuring that storage facilities are inspected daily for signs of attempted entry, vandalism and structural integrity and that they are fenced or otherwise enclosed and locked when unattended. In addition, retailers must also employ proper inventory controls for this sensitive material.
- Third, retailers must obtain required forms of governmental-issued picture identification from all purchasers.
- Fourth, retailers must record the name, address and telephone number of the purchaser, along with the intended use and quantities of ammonium nitrate purchased; and
- Fifth, retailers must also maintain this retail sale information for a two-year period and make it accessible, on demand to the Office of Homeland Security and Department of Agriculture and Markets.

A copy of the law, regulations and associated forms has been appended to my written testimony as previously submitted for your review.

In the past, the ability to trace purchases of ammonium nitrate was a game of chance – now we have established a firm methodology for data collection and enabled an ability to develop patterns and thus “connect the dots.” This system of verifying and recording identities and amounts of ammonium nitrate purchases will serve as an essential investigatory tool that did not exist before this law was signed.

We did not do this in a vacuum.

We used the pre-existing state statutory framework that already required the registration of ammonium nitrate wholesale distributors in New York with the state Department of Agriculture and Markets to enhance security with this new legislation at the point of obvious need and greatest potential exposure - where ammonium nitrate is sold on the open retail market.

With the support of the New York State Office of Homeland Security, the New York State Department of Agriculture and Markets conferred with the industry and their counterparts in other states to identify ammonium nitrate materials of concern and to ascertain what successful practices have been put into place. Input was also solicited from a variety of law enforcement and explosives-related organizations in the United States and abroad, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the New York City Police Department, the Institute of Makers of Explosives (IME) and members of the International Association of Bomb Technicians and Investigators (IABTI) from the United States, Canada and overseas. We received positive feedback on the measures we were planning and implementing.

We believe these new common-sense measures are a valuable first step to not only assist homeland security at home and in our communities to prevent the criminal use of ammonium nitrate fertilizer, but also in encouraging the implementation of best practices by the industry to more effectively deter the potential misuse of ammonium nitrate fertilizer and thus make us all more secure.

## **Conclusion**

I hope you will find the measures New York State has taken helpful in your deliberations in the markup session following this hearing, which will consider H.R. 3197, the Secure Handling of Ammonium Nitrate Act of 2005. I do however, leave you with this final thought -- while New York State has recognized and begun to address the potential misuse of ammonium nitrate fertilizer -- it is essential to keep in mind that evildoers, of course, do not recognize borders. National rules and standards across the board in all 50 states as a matter of federal law must be set in order to truly make this effort successful.

Thank you again.

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